

REQUEST FOR COUNCIL ACTION

MEETING

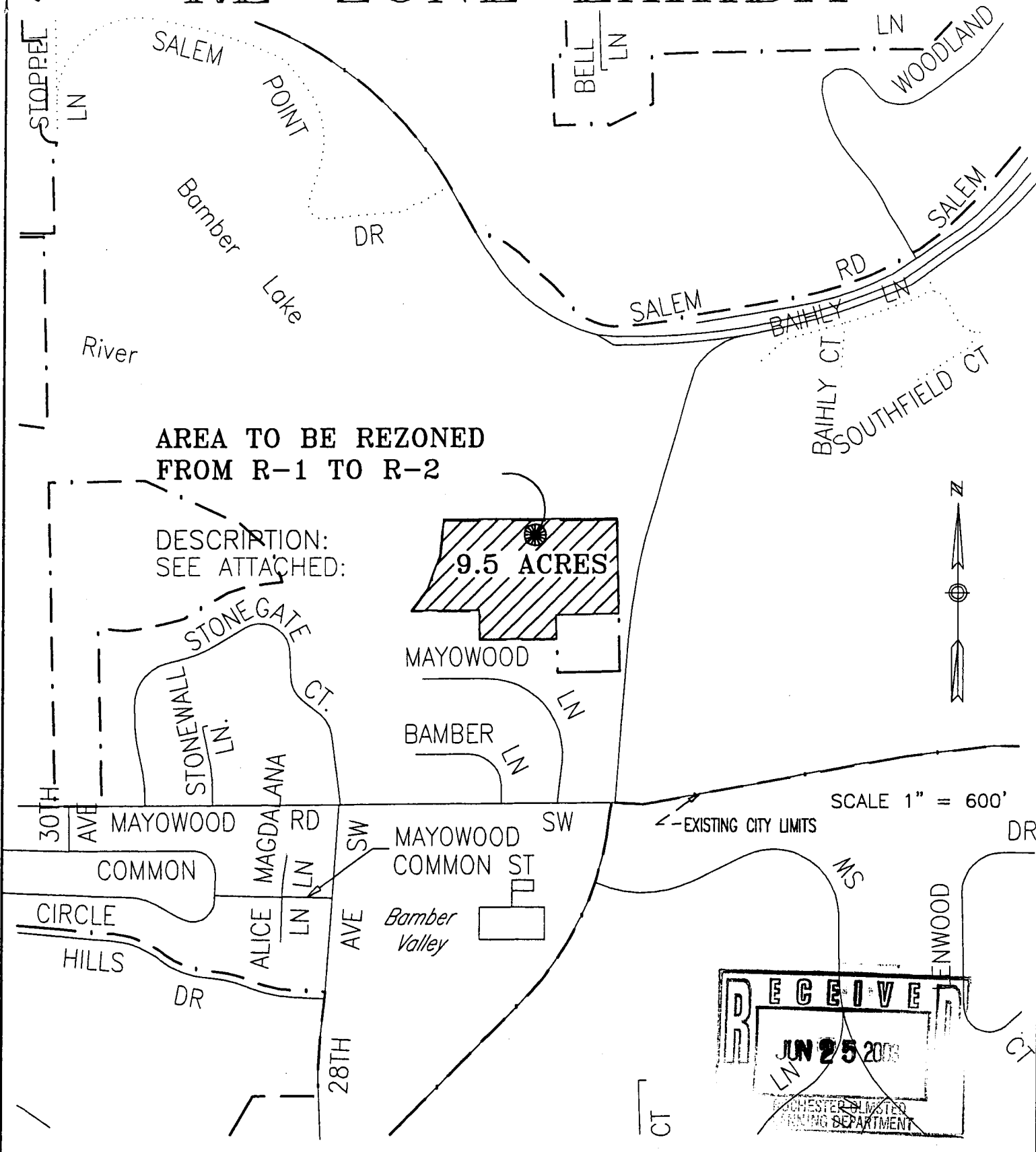
DATE: 8-18-03

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AGENDA SECTION: PUBLIC HEARINGS	ORIGINATING DEPT: PLANNING	ITEM NO. E-8
ITEM DESCRIPTION: Zoning District Amendment #03-14 by Americana Realty. The applicant is proposing to zone approximately 9.5 acres of land from the R-1 (Mixed Single Family) district to the R-2 (Low Density Residential) zoning district. The property is located along the west side of Bamber Valley Road SW, north of Mayowood Lane SW and south of the Zumbro River. A General Development Plan is being considered concurrent with this application.		PREPARED BY: Brent Svenby, Planner
<p>August 11, 2003</p> <p><u>City Planning and Zoning Commission Recommendation:</u></p> <p>The City Planning and Zoning Commission held a public hearing on July 23, 2003 to consider this zone change. The Commission also reviewed a GDP and conditional use permit for the property.</p> <p>The Commission reviewed the zone change request based on the criteria as included in the staff report and recommended Approval, with staff suggested findings.</p> <p>Motion by Mr. Quinn, seconded by Mr. Haeussinger to recommend approval of Zoning District Amendment #03-14, with staff-recommended findings. Motion carried 7-0.</p> <p><u>Planning Staff Recommendation:</u></p> <p>See attached staff report dated July 14, 2003.</p> <p><u>Council Action Needed:</u></p> <p><i>The Council should direct the City Attorney to prepare findings of fact reflecting the Councils decision on this zone change.</i></p> <p><i>If the Council approves this zone change as petitioned, it should instruct the City Attorney to prepare an ordinance that can be adopted supported by findings of fact and conclusions of law to amend the Zoning for the property</i></p> <p><u>Attachments:</u></p> <ol style="list-style-type: none">1. Staff Report dated July 14, 20032. Minutes of the July 23, 2003 CPZC Meeting <p><u>Distribution:</u></p> <ol style="list-style-type: none">1. City Administrator2. City Attorney: Legal Description3. Planning Department File4. Applicant: This item will be considered sometime after 7:00 p.m. on Monday, August 18, 2003 in the Council/Board Chambers at the Government Center, 151 4th Street SE.6. McGhie & Betts, Inc.		
COUNCIL ACTION:		
Motion By:	Seconded By:	Action:

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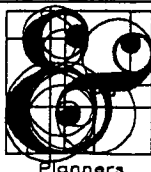
RE-ZONE EXHIBIT



FOR :

AMERICANA REALTY
ROCHESTER, MINNESOTA
55901

McGhie
Consulting Engineers



Betts, Inc.
Land Surveyors

1648 3rd AVE. S.E. Rochester, MN. 55904

507-289-3919

SCALE: 1" = 600'

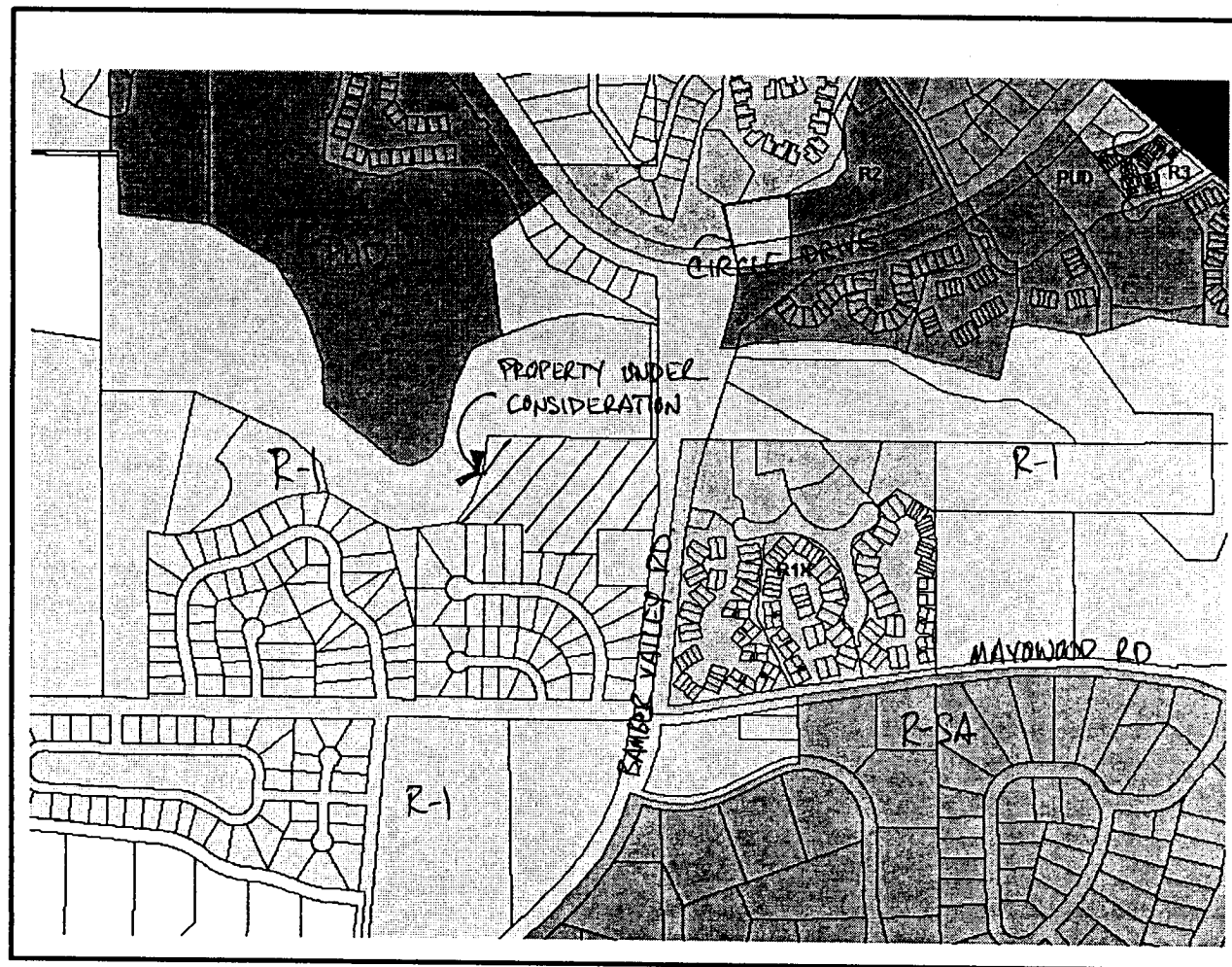
DRAWN BY: KLC

DATE: 06-23-03

ACCT. NO.: 1136/2404

CADD NO.: 2404EXH

Zone Change #03-14



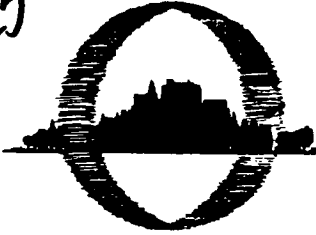
addresses/parcels july2003
District labels (ZONING_DIS)



Wednesday, Jul 16 2003

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ROCHESTER-OLMSTED PLANNING DEPARTMENT

2122 Campus Drive SE, Suite 100 • Rochester, MN 55904-4744

COUNTY OF

Olmsted

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TO: City Planning and Zoning Commission

FROM: John Harford, Senior Planner

DATE: July 14, 2003

RE: Zoning District Amendment #03-14 by Americana Realty. The applicant is proposing to zone approximately 9.5 acres of land from the R-1 (Mixed Single Family) district to the R-2 (Low Density Residential) zoning district. The property is located along the west side of Bamber Valley Road, SW, north of Mayowood Lane, SW and the south of the Zumbro River. A General Development Plan is being considered concurrent with this application.

Planning Department Review:

Petitioner: Americana Realty
1530 Greenview Drive, SW
Rochester, MN 55902

Consultant: McGhie and Betts
1648 Third Avenue SE
Rochester, MN 55904

Location of Property: The property is located along the west side of Bamber Valley Road, SW and south of the Zumbro River.

Requested Action: The applicant is proposing to re-zone the property from the R-1 (Mixed Single Family) district to the R-2 (Low Density Residential).

Existing Land Use: The property is currently undeveloped, except for a previously dredged pond, and is designated for "low density residential" types of uses on the Rochester Urban Service Area Land Use Plan.

Proposed Land Use: According to the GDP application submitted with the zone change request, the applicant intends to develop the site with 8 townhomes in the R-2 zoning district.

Adjacent Land Use and Zoning: The property to the north and west is part of the floodplain of the South Fork, Zumbro River. To the south the platted property, Bamber Corner 2nd, is zoned R-1 (Mixed Single Family). To the east is



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Bamber Valley Road and an R-1X (Mixed Single Family Extra) district encompassing a townhouse development known as Waterford.

Transportation Access:

The development has direct access to Bamber Valley Road, SW by a proposed private street.

Wetlands:

The site is shown to include hydric soils, an indication that wetlands may exist on the property. The area was mined starting in 1990, previous to the wetland rules adoption in 1992.

Neighborhood Meeting:

A neighborhood meeting was held on Tuesday, July 10, 2003. A summary of that meeting is enclosed.

Referral Comments:

1. Attached to General Development Plan #213.

Report Attachments:

1. Location Map
2. Area Zoning Map
3. Neighborhood Meeting Summary

Analysis for Zoning District Amendment:

Under the provisions of Paragraph 60.338 of the Rochester Land Development Manual, the Commission shall recommend for approval and the Council shall approve, an application requesting an amendment to the zoning map if the amendment satisfies the following criteria:

- 1) The criteria of this subdivision apply to those amendments to the zoning map filed by formal petition. An amendment need only satisfy one of the following criteria:
 - a) The area, as presently zoned, is inconsistent with the policies and goals of the Comprehensive Plan;
 - b) The area was originally zoned erroneously due to a technical or administrative error;
 - c) While both the present and proposed zoning districts are consistent with the Plan, the proposed district better furthers the policies and goals of the Comprehensive Plan as found in Chapters 2 and 3 of the Rochester Urban Service Area Land Use Plan, Chapter 3 of the Housing Plan, and Chapter 10 of the ROCOG Long Range Transportation Plan; or
 - d) The area has changed or is changing to such a degree that it is in the public interest to rezone so as to encourage development or redevelopment of the area.

The Rochester Urban Service Area Land Use Plan designates this property as appropriate for "low density residential" types of uses. Uses within the R-2 zoning district would be consistent with the current land use designation "low density residential". Rezoning this property would help further the policies and goals found in Chapters 2 and 3 of the Rochester Urban Service Area Land Use Plan, which encourage developing a range of densities and development styles. The re-zoning would also help to further goals and policies found within Chapter 3 of the Housing Plan to increase the supply of housing.

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2) The criteria of this subdivision also apply to those amendments to the zoning map filed by formal petition. However, an amendment must satisfy all of the following criteria:

- a) the permitted uses allowed within the proposed zoning district will be appropriate on the subject property and compatible with adjacent properties and the neighborhood; and

Uses within the R-2 Zoning District would be appropriate on the property and compatible with adjacent properties. According to the City of Rochester Zoning Ordinance, the R-2 zoning district is intended to maintain areas developed with a mixture of residential dwelling types that are of an overall low density. The gross density will be 1 unit/1.9 acres before the Site Capacity Calculation is made; that appears to require a Type I Performance Residential review process.

- b) the proposed amendment does not involve spot zoning. (Spot Zoning involves the reclassification of a single lot or several small lots to a district which is different than that assigned to surrounding properties, for reasons inconsistent with the purposes set forth in this ordinance, the state enabling legislation, or the decisions of courts in this state).

The amendment to the R-2 zoning district would be consistent with the Rochester Urban Service Area Land Use Plan designation for this property as "low density residential", and would not be considered spot zoning.

Staff Recommendation:

Staff recommends approval of the rezoning request to the R-2 district. The Planning Commission must make a motion to recommend approval or denial of this request. The Planning Commission must also make findings to support this recommendation. This recommendation will be forwarded to the City Council and heard at a later public hearing.

**Minutes of the Neighborhood Informational Meeting for
Americana Realty – General Development Plan and Re-zone
On July 10, 2003, 7:00 p.m. at Best Western Apache**

It Attendance: See attached attendance list

Purpose: The purpose of the meeting was to introduce the proposed General Development Plan and Zone Change from R-1 to R-2 on 9.5 acres and to answer questions and document concerns or issues that may need further investigation or consideration.

General Discussion:

Ms. Clarke, representing McGhie & Betts, Inc. introduced the General Development Plan and the process for submitting and reviewing the plans. We discussed the purpose of a neighborhood informational meeting and outlined the dates and locations of the next two public hearings to be held on July 23, 2003 and August 18, 2003. We also discussed the submittals of the zone change of R-2 on approximately 9.5 acres.

We discussed the general location, surrounding infrastructure such as existing roads with their classifications and current and proposed utilities. We discussed the proposed single access and the existing private driveway for the cabin located just south of the property boundary with a digital aerial photo of the area.

This property has several environmental sensitivity overlay zones as defined by the City of Rochester. The Shoreline Protection Zone and a Flood Prone Boundary was explained to the neighbors. These zones mandate certain development constraints for the property and were major issues in determining developable area for this project. A conditional use permit will need to be approved by the city to allow the developer to fill the area surrounding the townhomes above the floodway elevation.

Ms. Clarke then introduced Mr. Arnold Bomgaars as the property owner for this project. He explained the general timeline for development and proposed value for the individual units. He also talked about the maintenance and upkeep issues involved with the detention pond and Zumbro River corridor that crosses this property. He talked about the City of Rochester's access needs for the Electric Trans Line along the north side of the property and the Zumbro River Channel

The following questions and comments were reviewed by the attendee and recorded by Ms. Clarke. Responses to the questions have been drafted and follow each question/comment.

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Questions and Answers:

Question #1 I have seen several parked cars in my backyard between the pond and my home just south of the property boundary. Will this continue to be a problem?

Answer #1 *No. When this property is developed, the access the public use to get to the river will be landscaped with trees and grass. Landscaping and private residents on-site should give a more obvious appearance of private property and should discourage misuse of the area.*

Question #2 Can the residents from the south still access and walk from their homes to the river and pond?

Answer #2 *There will be a homeowners association to provide maintenance and will be responsible for this property. The association must decide how to manage the pond and river portion of the site and whether some neighbors can use the area. You would need to talk to the association and have a private understanding for that use. It is private property and has been private property. The same rules that apply for your private single family lots will apply to this property.*

Question #3 Will the detention pond be reduced in size because of this development or will some of the steep slopes be regraded?

Answer #3 *The pond size will not be reduced. Some of the slopes along the southeastern edge will be regarded and landscaped to add to the value of the townhomes' views of the river and the pond.*

Question #4 I do not want fencing of any kind around this property. Can we make that a part of the restrictive covenants for the project?

Answer #4 *Restricting fencing would need to be resolved when the restrictive covenants, which are just boiler-plate documents, are drafted up. I can look into the issue.*

Question #5 Who owns the land north and west of your property?

Answer #5 *The city owns the property north and I think the city owns the property to the west as well.*

Question #6 When these units are sold and a homeowners association is created, can we meet with them to discuss maintenance and access issues?

Answer #6 I can't see why not. However, you would have to take the initiative to contact the association and your input would not legally have to reflect their decisions unless you joined the association and paid fees that contributed to the overall maintenance of the property. You should consult with an attorney and Arnold Bomgaars at a latter time to discuss these potential options.

Question #7 Will the grading and drainage be altered only around C.S.A.H. 8 to the east side of the detention pond?

Answer #7 Yes. A preliminary grading plan was shown to the group.

Question #8 Will the drainage from the townhomes and landscaped areas reduce the water quality?

Answer #8 We don't anticipate a reduction in water quality.

Question #9 What is the timeframe for this project?

Answer #9 We hope to be grading and building the private street early in the spring of 2004. The homes will be built soon after.

Question #10 Could we have a clause in the restrictive covenants that says no fencing along the southern boundary?

Answer #10 As talked about earlier, restricting fencing would need to be resolved when the restrictive covenants, which are just boiler-plate documents, are drafted up. I can look into the issue.

Question #11 Kids ride their bikes along the path on CSAH 8 and then come down between the pond and the river and turn around in back of our property. How can we stop this from happening?

Answer #11 Landscaping and homes will help deter the public from thinking that this site is public property. Kids using this area, as a fun detour is not something we want to encourage either.

Question #12 Does the restrictive covenants recorded with this project go on in perpetuity or is there a date in the future where it will be reevaluated?

Answer #12 I think most restrictive covenants are revisited in 8 to 10 years.

Question #13 What is the estimated value of the townhomes?

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Answer #13 We are marketing for a step-up from the other residential units in the surrounding area. We are looking at \$300,00 to \$380,00. These units will be similar to Salem Pointe Condos.

Question #14 What can we do to preserve our view of the pond and river?

Answer #14 We are not proposing to landscape the southern portion of the site. We are not proposing to install a fence as we develop and sell these townhomes. However, the homeowners association could make some improvements at a later time if they choose to.

Question #15 I have heard of a law that says if you walk through a private property for greater than seven years consecutively you have some rights to the land. Could that be the case here in Rochester?

Answer #15 I have not heard of such a law locally. If you don't pay taxes or own the property you have no rights to the property.

Question #16 Could we discuss buying some property adjacent to ours that is shown on the southern boundary of this GDP?

Answer #16 We should discuss that at a later date. I would like to get this plan approved by the City of Rochester before discussing any potential metes and bounds splits with the adjoining neighbors.

Question #17 We kind of uses are allowed in the R-2 zone? Could we see some non-residential uses?

Answer #17 The R-2 zone is primarily developed for residential uses. There are a few non-residential uses such as offices and medical/parking facilities. However, to develop these uses we would need to submit a revised GDP and revised detail plans to develop something other than what is shown here tonight.

Question #18 Why do you need R-2?

Answer #18 You cannot construct townhomes with private community open space in the R-1 zone.

Question #19 Could you decide to change your minds and develop this site with commercial uses?

Answer #19 We could not develop commercial uses without another rezoning and GDP hearing process. Rezoning for commercial uses would involve the same procedure you are here tonight for. Another neighborhood meeting would be called and two public hearings at City Hall would be held.

Question #20 Could you decide to put less expensive units in this project?

Answer #20 With cost of construction, infrastructure and the driveway access to CSAH 8 and the relatively small buildable area, we need to have higher end units to make up for our costs.

Question #21 Will you need to build storm shelters for the units since they have no basements?

Answer #21 No, we need to provide a safe place within the structure, such as a stairwell, to go to in case of an emergency.

Question #22 Will you be building these townhomes yourself?

Answer #22 Yes.

Question #23 Will there be enough parking for the homeowners?

Answer #23 Yes. Each unit has a two-car garage and two parking stalls in the driveways.

Question #24 Could you use a more restrictive set of covenants like the covenants for Bailey Heights as a base for the covenants for this development?

Answer #24 We could certainly look into a more restrictive set of covenants for this project. I will need to have my attorney look into the matter.

Question #25 Could you separate natural areas with landscaped and built areas within the project – and have the natural areas from the pond west under one set of rules and the landscaped areas towards CSAH 8 under another set of rules within the same covenants?

Answer #25 I will need to look into the matter. We want to encourage good neighbor relations between the single-family homes and this development. I think that simple rules help to maintain good neighbors. We will work on the homeowners association and restrictive covenants to promote good neighborhood relations.

Mr. Brent Svenby presented the staff report, dated July 14, 2003, to the Commission. The staff report is on file at the Rochester-Olmsted Planning Department.

Mr. Svenby stated that the information requested from the applicant at the time the staff report was written has been provided.

Mr. Svenby stated that, since additional information has been provided, staff-recommended condition number 1 listed in the staff report is no longer needed and could be stricken.

Ms. Petersson asked where the water would be taken.

Mr. Svenby responded in a detention facility located to the west.

Mr. Burke moved to recommend approval of Type III, Phase III Conditional Use Permit #03-42 by Americana Realty with staff-recommended findings and two conditions as revised by staff. Mr. Quinn seconded the motion. The motion carried 7-0.

CONDITIONS:

1. The applicant shall receive approval of the grading and drainage plan prior to any grading activity taking place on the property. The fill needed shall be that necessary to meet the requirements of Section 62.841.
2. Prior to development of the property, the site plan shall be reviewed through the Site Development Plan Review process. During this review the proposed site plan will be examined to ensure that it meets the standards of the R-2 zoning district.

PUBLIC HEARINGS:

* Zoning District Amendment #03-14 by Americana Realty. The applicant is proposing to zone approximately 9.5 acres of land from the R-1 (Mixed Single Family) district to the R-2 (Low Density Residential) zoning district. The property is located along the west side of Bamber Valley Road SW, north of Mayowood Lane SW and south of the Zumbro River. A General Development Plan is being considered concurrent with this application.

AND

General Development Plan #213 by Americana Realty to be known as Americana Realty. The applicant is proposing to develop approximately 9.5 acres of land with single family attached dwellings. The property is located along the west side of Bamber Valley Road SW, north of Mayowood Lane SW and south of the Zumbro River. A Zoning District Amendment is being considered concurrent with this application.

Mr. Brent Svenby presented the staff reports to the Commission. The staff reports are on file at the Rochester-Olmsted Planning Department.

Mr. Svenby asked that the additional condition listed in the July 23, 2003 memo regarding a turnaround be added to the staff-recommended conditions.

Mr. Quinn asked where the cross property easement agreement would need to be located.

Mr. Svenby showed the location on a site plan on the overhead projector.

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The applicant's representative, Kristi Clarke of McGhie & Betts, Inc. (1648 Third Avenue SE, Rochester MN 55904), addressed the Commission. She stated that they met with the neighbors on Tuesday, July 10, 2003 and did not receive any objections.

Ms. Clarke stated that, in 1990, they dug the hole for the detention pond. They will be cutting more than they would be filling.

Ms. Clarke stated that they would be building several feet above the flood prone. An engineer has indicated that they believed that, with the amount cut in 1990, it probably is not in the flood prone any longer.

Ms. Petersson asked if there would be basements.

Ms. Clarke responded no.

Ms. Petersson asked where residents would go in case of a tornado.

Ms. Clarke stated that they have to build a safe point in the home.

Ms. Clarke stated that they do not agree with staff-recommended condition number 9 regarding the turnaround. The applicants had talked with the Fire Department prior to submitting the application with regard to that bulb and had gotten verbal approval. Since they had that, they made their design based on that and the adjoining property owner has already planned their landscaping around the proposed bulb.

Mr. Haeussinger stated that the proposed bulb served no purpose where located. It needed to be located at the north end to serve as a turnaround for the Fire Department.

Mr. Bomgaars addressed the Commission. When the discussion occurred with the Fire Department, it was indicated that the truck did not need to go all the way to the north end to service the north building. They could maneuver in the bulb and back up if needed. If they would have known the bulb had to go to the other end, their entire design of their development would be changed. He expressed concern with getting another condition two hours prior to the public hearing.

With no one else wishing to be heard, Ms. Wiesner closed the public hearing.

Mr. Quinn asked if staff is requesting the condition with regard to the turnaround.

Mr. Svenby responded yes.

Mr. Burke asked what the length of the roadway was.

Mr. Svenby responded approximately 320 feet.

Mr. Haeussinger asked what the minimum length was.

Mr. Svenby responded 150 feet.

Mr. Svenby stated that the Fire Department's comments were written on July 18, 2003 and were sent to the applicant at that time. Therefore, they were aware of the requirement.

Mr. Quinn moved to recommend approval of Zoning District Amendment #03-14 by Americana Realty with staff-recommended findings. Mr. Haeussinger seconded the motion. The motion carried 7-0.

Mr. Quinn moved to recommend approval of General Development Plan #213 by Americana Realty to be known as Americana Realty with staff-recommended findings and conditions, including condition number 9, with the thought that since the issue was brought up recently there would be further discussion. Mr. Haeussinger seconded the motion. The motion carried 7-0.

CONDITIONS:

1. The proposed location of the private sewer lift station and force main must be shown on the GDP prior to the City Council review.
2. Confirm the location of the 8' bike trail and correct the site plan if necessary.
3. Submit a cross property easement agreement to allow the adjacent landowner to the south access between the existing driveway and Bamber Valley Road.
4. Prior to Final Plat submittal, the applicant shall enter into a Development Agreement with the City that outlines the obligations of the applicant relating to, but not limited to flood elevation limitations to development, stormwater management, traffic improvements, pedestrian facilities, access control, extension of utilities for adjacent properties, maintenance and ownership of the proposed private lift station, and contributions for public infrastructure.
5. At the time of platting, controlled access shall be dedicated along the entire frontage of Bamber Valley Road.
6. Storm water management must be provided for in this development. A Storm Water Management fee will apply for the benefit of participation in the City's Storm Water Management Plan for any areas of the development that do not drain to a privately constructed permanent detention facility built to serve the development.
7. Parkland dedication requirements for this development shall be met via cash in lieu of land.
8. The applicant shall investigate the possibility of wetlands on the property and submit the required information to the local government unit for review prior to grading or other development occurring on the property.
9. The GDP shall be revised to provide a turnaround at the northerly end of the private roadway that meets the fire department standards.

Land Subdivision Permit (Preliminary Plat) #03-11 to be known as Maine Street Development by Maine Street Development Company of Rochester LLC. The Applicant is proposing to subdivide approximately 104.64 acres of land into 13 lots for commercial-industrial development and 8 Outlots. The Plat also proposes to dedicate new public roadways. The applicant is also requesting approval of a Substantial Land Alteration to